



CHARTER REVIEW COMMITTEE

Monday, March 21, 2016, 4:30 P.M.
City Hall Meeting Room (1st Floor)
City Hall, 255 W. Alameda
Tucson, Arizona 85701

Legal Action Report

1. Roll Call

Meeting was called to order by Chairwoman Bonnie Poulos at 4:31 p.m. Those present and absent were:

Present:

Bruce Burke	Member, Mayor's Office
Tom Burke	Member, City Manager's Office
Mark Crum	Member, Ward 6
Randi Dorman	Member, Ward 5
Tannya Gaxiola	Member, Ward 3
John Hinderaker	Member, Ward 6
B. Joseph Howell	Member, Ward 1
Luke Knipe	Member, Ward 1
Leonard (Lenny) Porges	Member, Ward 2
Bonnie Poulos	Member, Ward 3
Tom Prezelski (arrived at 4:52 p.m.)	Member, Ward 2
Jeff Rogers	Member, Mayor's Office
D. Grady Scott (arrived a 4:38 p.m.)	Member, Ward 5
Moon Joe Yee	Member, Ward 4

Absent:

John Springer	Member, Ward 4
---------------	----------------

Staff Members Present:

Michael Rankin, City Attorney
Roger W. Randolph, City Clerk
Deborah Rainone, Chief Deputy City Clerk
Suzanne Mesich, Assistant City Clerk
Yolanda Lozano, City Clerk's Office
Raphe Sonenshein, Facilitator

2. Approval of Minutes from the meeting of March 7, 2016 meeting

It was moved by Committee Member Knipe, duly seconded, and CARRIED by a voice vote of 12 to 0 (Committee Members Tom Prezelski, Grady Scott and John Springer absent), to approve the Minutes from the March 7, 2016, meeting as presented.

3. Call to the Audience

Christopher Cole addressed the Committee regarding the City's finances.

Robert Medler, Tucson Chamber of Commerce, addressed the Committee regarding the electoral process.

(NOTE: Committee Member Grady Scott arrived at 4:38 p.m.)

Ted Maxwell, Southern Arizona Leadership Council (SALC), addressed the Committee regarding the electoral process.

4. Summary by Chair of Committee's Prior Actions

Introductory comments were made by Chairwoman Bonnie Poulos reviewing some of what the Committee had already discussed and made preliminary decisions on and highlighting the areas where there was not full agreement by the Committee.

Ms. Poulos stated that the Committee had agreed on keeping in mind the Committee's goals when conducting deliberations regarding the City's electoral process and financial issues. She said early on, the Committee unanimously made two preliminary recommendations on some of the financial issues:

1. To recommend changing the Charter to modify the \$1.75 per \$100 assessed value on property taxes so that it did not apply to secondary taxes as long as State law still required voter approval for secondary taxes.
2. To recommend that the prohibition of pledging excise tax be deleted from the Charter, which limits the City on receiving good financing on borrowing funds.

Ms. Poulos stated the Committee had also agreed that there should be more flexibility within the Charter with regards to the sales tax, but an agreement was not reached on whether or not to retain the current cap, increase the cap or remove it altogether. She said during the last meeting, lengthy discussions were held and there were 13 people who responded to the question about the sales tax cap. She commented that 3 people wanted to retain the cap of 2%; 3 people wanted to increase the cap; and 7 were in favor of removing the cap altogether from the City Charter.

Ms. Poulos said there was not agreement among the Committee on whether voter approval should be required for sales tax increases; 9 thought there should be and 4 did not.

As far as the electoral process, Ms. Poulos said there was unanimous agreement to not recommend completely at-large City elections of council members as an alternative to the current system. The current system involves nominating and electing by ward only in the Primary Election and by at-large in the General Election.

Ms. Poulos said the Committee was also in favor of some form of ward elections; as an alternative to the current system, but did not agree on whether to recommend a ward only system or a hybrid system that combines 6 ward only elected members with 2 additional at-large members. She stated the Committee basically agreed that switching to ward only elections was more equitable if all of the council members were elected in the same election as well as the mayor and any at-large members. This would decrease the number of elections held and paid for by the City of Tucson. She commented that there was also agreement that no changes be made in the Charter regarding campaign financing at this time.

(NOTE: Committee Member Tom Prezelski arrived at 4:52 p.m.)

Dr. Raphe Sonenshein, Consultant, stated it was remarkable what the Committee had done thus far given the short timeframe. He also recapped some of the Committee's earlier discussions regarding the choices of election systems.

Dr. Sonenshein said in 2001, cities with populations over 200,000 people, 45.5% elected their councils by ward only; 30.2% by a hybrid system and a very small number by an at-large system. He said the number for at-large systems diminished every few years. He spoke about the Hybrid (Mixed) System regarding costs, voter turnout, the roles of at-large members, the importance of at-large members and district (ward) council members having equal status with respect to offices and services, and that there be no difference in the term lengths. He stated that whichever system was chosen it would be a big change regardless.

Dr. Sonenshein stated that some of the discussion the Committee needed to have was, did they want to put only one recommendation forward; did they want to put one forward with a backup plan or did they want to put forward two recommendations with a series of questions that must be clarified by the Mayor and Council.

Ms. Poulos stated that after going through all of the Committee's meeting minutes she had come up with a recommendation, in case no one on the Committee had. She mentioned that Committee Member Tom Burke had submitted a proposed motion for ward only form of election, and she submitted a recommendation for a hybrid form of election. She asked if the Committee

wanted to discuss both motions and provide feedback. Both Mr. Burke and Ms. Poulos spoke about their recommendations.

Committee Member Bruce Burke stated he felt that was the focus of their meeting and they should have discussion.

Discussion was held reviewing the process used to determine each member's first and second choices regarding election systems, election turnout, and staggered elections. Committee members again commented on which form of election they preferred and why.

Committee Member Yee stated he wanted the chance to express his two choices since he was not at the last meeting. He said his first choice was the current system and his second choice was the hybrid system. He said he had some concerns about the hybrid system, but wanted to go with what was the least costly and inexpensive system for the City.

Committee Member Knipe stated that he thought, as a Committee, they owed a measure of deference to the stakeholders that had been involved in the process from start to finish, especially, SALC, TRRG, and the Tucson Chamber of Commerce.

Discussion was held regarding the two recommendations both in favor and in opposition. Comments included impacts of the change in the form of elections, what the ultimate goal of the Committee was, what was the best recommendation for opportunity to pass, one question vs. two, ability to meet constituent needs, representation for all constituents, improving city governance, and what was the easiest transition for voters,

Committee Member Scott asked of the cities with a hybrid system, how many of them had moved from a ward only system to a hybrid system vs. an at-large system moving in the other direction. He also asked if they really needed to increase the size of city government and at what cost.

Dr. Sonenshein stated that in the most recent cases was Seattle and Detroit who moved from an at-large system to a hybrid system. He said Boston moved to a hybrid system a very long time ago. Oakland moved from an at large system to a hybrid system several years ago. He stated his guess was that older cities had gone from an at-large to a hybrid system. He commented that it was unlikely today, if you went to a ward system, that in a number of years you would go to a hybrid system.

Discussion continued.

Ms. Poulos stated she wanted to go around the table and find out which election system, ward only or hybrid, each committee member preferred. There were 8 members in favor of a hybrid election and 6 members in favor of ward only elections.

Discussion ensued. It was suggested that the Committee put forward the two choices to the Mayor and Council and have them decide the process going forward. The Committee also suggested that they possibly recommend or urge them to hold public hearings and only put forth one question to the voters.

Dr. Sonenshein stated he did not think, once the recommendation was turned over to the Mayor and Council that it would come back to the Committee for final consensus. He asked the Committee, if the Mayor and Council adopted one of the recommendations, and it was not the one they specifically voted for, would they still support the final recommendation. The Committee responded with 10 saying yes, 3 saying no, and 1 undecided.

Dr. Sonenshein then asked, whichever alternative each Committee Member did not support turned out to have greater support and public opinion and the Mayor and Council found it to be palatable in their judgment and it passed, would that change their vote. He said, in other words, how much of their vote was viability and how much was a system that they, as a committee member, most wanted to see implemented. He said he was not asking them to change their vote, rather he was trying to dig out the things about the message they wanted to get across.

Discussion continued.

It was moved by Committee Member Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (Committee Member Springer absent), to advise the Mayor and Council that the Charter Review Committee does not support at-large elections for council members either by Charter amendment or as a natural result of an adverse decision from the 9th Circuit Court of Appeals on the City's pending request for en banc review.

It was moved by Committee Member Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (Committee Member Springer absent), to recommend to the Mayor and Council that an item be placed on the ballot to be approved by the voters of Tucson to eliminate staggered elections such that council members and the mayor are elected in the same election beginning two years from the date of passage of this referendum.

It was moved by Committee Member Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (Committee Member Dorman initially abstained and Committee Member Springer absent), to advise the Mayor and Council that the Charter Review Committee recommends further public hearings and budgetary consideration on two alternatives for placement on the ballot; 1) as an alternative to the electoral process in the Charter that directs that both primary and general elections of the six council members currently provided for in the Charter be elected by ward only elections and 2) that there be two additional council members added that would be nominated and elected by the voters of the City at-large and their terms to commence two years from the date of passage of this referendum. All council members, whether elected by ward or at-large would have equal status with respect to resources, salary, length of term and powers.

Mr. Hinderaker stated that the second alternative would be that the government of the City should continue to be vested in the Mayor and Council of six members, one from each ward, and that the method of election of the mayor and the six council members, which is currently done by ward only in the Primary Election, followed by a city-wide General Election, be replaced for all members of the council to a ward only Primary Election followed by a ward only General Election and that the election of the mayor continue to be by means of a city-wide Primary Election and a city-wide General Election.

Dr. Sonenshein stated before moving forward he felt there needed to be guidance from the committee on the details on the recommendations, such as both systems are well established systems, both are good established alternatives, etc. He stated that as many members of the Committee should be present at the Mayor and Council meeting when their recommendations would be discussed.

Discussion was held regarding the formulation of the final report.

Mike Rankin, City Attorney, asked for clarification on the motion that after the Mayor and Council held public hearings and the public process that they only put one recommendation on the ballot.

It was moved by Committee Member Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (Committee Member Springer absent), to recommend to the Mayor and Council that only one of the two alternatives be placed on the November General Election ballot in 2016 for consideration by the voters regarding the form of election.

Discussion was held.

It was moved by Committee Member Bruce Burke, duly seconded, and carried by a voice vote of 14 to 0 (Committee Member Springer absent), to authorize Committee Members Poulos and Dorman and Dr. Sonenshein to work together to formulate a final report on behalf of the Committee to the Mayor and Council.

RECESS: 6:50 p.m.

RECONVENE: 7:15 p.m.

Ms. Poulos reconvened the meeting; all members were present as they were at the start of the meeting.

Mr. Hinderaker stated that after some thought, his second motion as approved, to move away staggered elections and holding the elections two years from date of passage of the initiative would put the elections on even numbered years. He stated he wanted to make a new motion.

It was moved by Committee Member Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (Committee Member Springer absent), to recommend to the Mayor and Council that a Charter amendment be placed on the ballot in a November election to eliminate staggered elections and that the mayor and all council members be elected in the same election beginning with the 2019 election cycle. (This motion supersedes the previous motion on staggered elections.)

5. Discussion and Voting on Final Recommendations to Mayor and Council Regarding

a. Changes to City Elections

b. Property Taxes, Bonding and Sales Taxes

Introductory comments were made by Chairwoman Poulos. She recapped the tentative motions made by the Committee in January 2016.

Ms. Poulos stated that the first motion was to recommend to the Mayor and Council that they place on the ballot for voter approval, a provision to amend Chapter IV §1 (16)(a) to delete the prohibition of pledging excise taxes. The Committee was in unanimous agreement to submit the motion as is.

Ms. Poulos stated the second motion was to recommend to the Mayor and Council that they place on the ballot for voter approval, a provision to amend Chapter IV §2 to change the heading to "Business Privilege Tax and Property Tax; and modify the \$1.75 per \$100 assessed value limit on ad valorem taxes so that it does not apply to secondary property taxes, **but only so long as** state law requires a majority of voters to approve any increases to the secondary property tax on the ballot in a general election.

A friendly amendment was made by Committee Member Tom Burke to state that a majority of voters voting in an election to approve any increases. The motion with the friendly amendment had unanimous consensus from the Committee.

Ms. Poulos stated that from the last meeting, she did a tally of how the members of the Committee fared regarding the Cap on Sales Tax. She said there were three questions posed:

- 1) leave the cap at 2% - 3 members favored this option
- 2) increase the cap to 2.5% or 3% - 3 members favored this option
- 3) remove the cap altogether – 7 members favored this option

Ms. Poulos said that there were 9 members in favor of requiring voter approval to increase taxes over and above what was already stated in the Charter and 4 were opposed to the need for voter approval.

Ms. Poulos commented that based on those tallies, she came with a couple of recommendations for motions as follows:

- 1) Recommend removal of the sales tax cap in the Charter, but allow for an increase to the sales tax with voter approval.
- 2) Recommend Mayor and Council are authorized to impose a transaction privilege tax up to 2.5%, raising the cap in the Charter by voter approval.
- 3) Recommend Mayor and Council be authorized to impose a transaction privilege tax that exceeds 2% but only if such additional sales tax becomes effective after it is placed on the ballot and approved by a majority of voters at the next general election.

Discussion was held regarding which option gave the Mayor and Council the most financial flexibility, requiring voter approval, impacts of Charter changes, adding language to the Charter that is not currently there, and what option would most likely be passed by the voters. It was determined that the Committee's options were between numbers 2 and 3.

Committee Member Scott asked that Options 2 and 3 be restated:

Option 2

Recommend that a provision be placed on the ballot for voter approval to amend Chapter IV, §2, to authorize the Mayor and Council to impose a transaction privilege tax of up to 2.5%.

Option 3

Recommend that a provision be placed on the ballot for voter approval to amend Chapter IV, §2, to authorize the Mayor and Council to impose a transaction privilege tax that exceeds 2%, but only if such additional sales tax could only become effective after it is placed on the ballot and approved by a majority of the voters at the next election.

Dr. Sonenshein commented that he had a wording suggestion for Option #3. He stated the Mayor and Council did not impose anything, the voters did and thought the Committee was asking for trouble by giving them power they did not actually possess. He said a stronger more appealing way to say what they wanted to say was to state, ". . . should not exceed 2% without the express permission of the voters as expressed in an election."

Discussion ensued.

Roger Randolph, City Clerk, explained that in listening to their discussion, he wanted to clarify one of the options, when the cap is set at 2.5%, all the Committee was doing was changing that one number in the Charter so if the

Mayor and Council chose to exceed the 2.5% in the future, they would do exactly what they had to currently do, was voter approval. In other words, it would be a Charter change with voter approval and voter approval for the tax increase.

Discussion continued.

Ms. Poulos stated that essentially she saw the same division with the current Committee as with the last regarding the sales tax issue. She said she had a question for the Committee on whether or not, in the Committee's narrative to the Mayor and Council, they should make a recommendation about separating the three financial issues on the ballot or placing them on separate ballots in different elections.

Discussion was held.

The Committee was in consensus that the three options should be placed on the ballot as three separate questions as well as the question on the form of elections.

Ms. Poulos asked the Committee how they wanted to proceed with the sales tax issue.

Dr. Sonenshein suggested that a motion be made stating that the sense of the Committee was that the City needed greater flexibility in this area. He also suggested that the Committee go through a first and second choice on the options to find out where everyone stood.

Discussion continued.

Ms. Poulos reiterated the options and asked the Committee to vote for one option using a show of hands:

Option 1 – Eliminate the cap altogether = 7

Option 2 – Raise the cap to 2.5% = 3

Option 3 – Leave the cap at 2%, but allow increase with voter approval = 4

Option #2 was eliminated. Ms. Poulos asked the Committee to now vote, using a show of hands, for the two remaining options.

Option 1 = 7

Option 3 = 7

Ms. Poulos stated that the Committee was unanimous in that they felt there needed to be greater flexibility within the Charter, but were divided on how best to achieve that.

Committee Member Tom Burke stated that their votes indicated which option was each member's favorite. He asked if they should vote on which Option was practical.

Dr. Sonenshein suggested that the Committee pick there number one and number two choices.

Option 1 Eliminate Cap Altogether	Option 2 Raise the Cap to 2.5%	Option 3 Leave the Cap at 2%; but allow for increases w/voter approval
1 st Choice		
1 - Scott		1 - Crum
1 – Burke, B.		1 - Yee
1 – Burke, T.		1 – Hinderaker
1 - Porges		1 – Poulos
1 – Rogers		1 – Dorman
1 – Knipe		
1 – Prezelski		
1 – Gaxiola		
1 - Howell		
2 nd Choice		
2 – Crum	2 – Knipe	2 - Scott
2 – Yee	2 – Prezelski	2 – Burke, B.
2 – Poulos	2 – Gaxiola	2 – Burke, T.
	2 - Dorman	2 – Rogers
	2 – Howell	
Totals 1 st and 2 nd Choices		
1st choice = 9	1st choice = 0	1st choice = 5
2nd choice = 3	2nd choice = 5	2nd choice = 4
Total = 12	Total = 5	Total = 9
Grand Totals		
14 – Members present at the meeting; 14 – members with a 1 st choice 12 – members with a 2 nd choice 2 – members with no 2 nd choice		

Ms. Poulos commented that the Committee was unanimous in agreeing there needed to be greater flexibility with regard to imposing a sales or the sales tax revenue within the Charter. She said the majority of the Committee (9 votes) recommended removing the cap altogether (with nothing about voter approval), however, if that was not possible and it was deemed something the Mayor and Council did not want to do, then the Committee's recommendation would be to leave the 2% cap, but provide for voter approval to authorize an increase over the cap.

Dr. Sonenshein asked if Ms. Poulos' summary could be turned into a motion.

It was moved by Committee Member Hinderaker, duly seconded, and passed by a roll call vote of 12 to 2 (Committee Members Porges and Prezelski dissenting and Committee Member Springer absent), to recommend to the Mayor and Council that a Charter amendment be placed on the ballot to eliminate the cap altogether on the sales tax in the Charter; but should not be feasible, recommending retaining the cap, but providing for a provision to exceeding the cap with voter approval.

Committee Member Knipe explained his "yes" vote stating that he was in agreement with giving the Mayor and Council greater flexibility in their efforts to raise revenue, but wanted the record to show that the motion did not express unanimity on the recommendation concerning the placement of a provision in the Charter requiring voter approval.

It was moved by Committee Member Bruce Burke, duly seconded, and carried by a voice vote of 14 to 0 (Committee Member Springer absent), giving Ms. Poulos and Ms. Dorman the authority to write up the recommendation to the Mayor and Council on behalf of the Committee regarding the financial issues.

6. Call to the Audience

Christopher Cole addressed the Commission regarding his concerns on the impacts of increasing sales taxes in the City.

7. Next Steps for the Committee and Summary to the Mayor and Council

Introductory comments were made by Committee Member Poulos regarding ensuring that the recommendation to the Mayor and Council includes that the items placed on the ballot be separate issues and be submitted at a general election.

8 Adjournment

Meeting was adjourned at 8:30 p.m.